

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRENT ALLEN, et al.,

Plaintiffs,

v.

CITY OF ANTIOCH, et al.,

Defendants.

Case No. 23-cv-01895-VC

**ORDER GRANTING MOTION TO
DISMISS**

Re: Dkt. No. 81

The motion to dismiss the claims against Deven Wenger is granted. This ruling assumes the reader is familiar with the facts, the applicable legal standards, and the arguments made by both parties.

The nonconclusory allegations in the complaint about Wenger are insufficient to state a claim against him. The complaint alleges only that Wenger received hateful text messages, that he received messages in which other officers bragged about violating civil rights, and that he did not generally intervene in or report the text messages or his awareness of the conduct described in them. The opposition brief mostly does not defend the complaint but instead rests on additional allegations, apparently supported by the recently-unsealed indictment of Wenger.

A complaint including the allegations described in the opposition brief would almost certainly survive a similar motion to dismiss. Thus, the claims against Wenger are dismissed with leave to amend. Any amended complaint is due within 14 days of this order.

IT IS SO ORDERED.

Dated: April 30, 2024



VINCE CHHABRIA
United States District Judge